Filed 5/17/07 Jackson v. Darling CA2/5

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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FIVE

WILLIAM JACKSON, Plaintiff and Respondent, v. ROSLYN DARLING, Defendant and Appellant.	B192121 (Los Angeles County Super. Ct. No. BS102905)

APPEAL from a judgment of the Superior Court of Los Angeles County. John P. Shook, Judge. Affirmed.

Roslyn A. Darling, in propria persona, for Defendant and Appellant.

No appearance for Plaintiff and Respondent.

William Jackson (who is not a party to this appeal) sought a restraining order prohibiting harassment, against appellant Roslyn Darling. After an evidentiary hearing, the trial court issued such an order.

The court found that appellant and Jackson had known each other for three years, and that Jackson had for a time given appellant permission to park in his driveway, but that he had revoked that permission. Appellant had offered into evidence a document which she contended was a lease, through which Jackson had leased her a parking space and a guest house or shed, but the court found that there was insufficient proof that the signature was Jackson's and that there was no lease. The court ordered that appellant not harass, attack, strike, threaten, assault, hit, follow, or stalk Jackson, or destroy his personal property or that of guests staying in his house, that appellant not contact Jackson directly or indirectly by telephone, mail, or email; and that she not keep Jackson or his house guests under surveillance or to block their movements. Appellant was also ordered to stay 100 yards away from Jackson, a David Massen, specified property on Willow Glen Road, and Jackson's vehicles and those of his house guests which were located on Jackson's premises. The court noted that appellant was free to be on Jackson's street, which was a public road, if she had a lawful purpose for being there, but cautioned her to stay away if she did not.

On appeal, Darling first contends that the order must be reversed because, given that there was a lease for the parking space and guest house, the order amounted to an eviction, an order the court did not have jurisdiction to make. However, Darling has provided us with only a partial transcript of the hearing, one which omits the evidence presented by Jackson. We may not reverse a judgment until we have examined "the entire cause, including the evidence." (Cal. Const., art. 6, § 13) We must presume in favor of the judgment, and error must be demonstrated. "[I]t is settled that: 'A judgment or order of the lower court is *presumed correct*. All intendments and presumptions are indulged to support it on matters as to which the record is silent, and error must be affirmatively shown. This is not only a general principle of appellate practice but an ingredient of the constitutional doctrine of reversible error.' (3 Witkin, Cal.Procedure

(1954) Appeal, § 79, pp. 2238-2239; *Minardi v. Collopy*, 49 Cal.2d 348, 353; *Coleman v. Farwell*, 206 Cal. 740, 742.)" (*Denham v. Superior Court* (1970) 2 Cal.3d 557, 564.) The trial court found that there was no lease, and in the absence of a complete record which establishes that there was no substantial evidence for the finding, we must affirm.

The same rules apply to Darling's next argument, that the order must be reversed because it is overly restrictive and too severe. Our record includes neither a full trial transcript, nor the order itself. In the absence of a record which includes all the evidence, we may not make the ruling Darling requests.

Nor can we reverse on any of Darling's other grounds.

Darling contends that the trial judge had a conflict of interest. She seeks to add facts to the record by stating in her brief that shortly before trial, she overheard a conversation between Jackson and his lawyer, in which the lawyer said that he had known the judge personally for many years and that the judge would give them what they wanted. Darling also states that during the trial, the judge "smiled and blushed" in unusual ways while talking "in a very supportive fashion" to Jackson's lawyer. We must disregard facts recited in the briefs which are unsupported by the record or judicial notice. (*Moyal v. Lanphear* (1989) 208 Cal.App.3d 491.) Darling's allegations, which were not raised in the trial court, cannot form a basis for reversal.

Darling additionally argues that the order amounted to gender discrimination, in that Jackson never evicted or sought to restrain a male employee, David Massen, even though Massen was disturbing the peace. Even if Darling is correct about Massen's conduct, we know of no rule of law which would limit Jackson's ability to seek a restraining order against appellant, based on her gender and Massen's conduct. (See Gov. Code, § 12900 et seq; Civ. Code, § 51.)

Darling argues that the order must be reversed because it followed a temporary restraining order which was issued without notice. We do not see the relevance of any lack of notice prior to the temporary order. The order appealed from was issued after notice and hearing. We thus see no due process violation, and no ground for reversal.

Finally, Darling argues that order must be reversed because her counsel at the hearing was inadequate in that he failed to competently question witnesses and failed to challenge the temporary order. Darling suggests no rule of law which would allow us to reverse this case on this ground, and we know of none.

Disposition

The judgment is affirmed.

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ARMSTRONG, J.

We concur:

TURNER, P. J.

MOSK, J.